



*RENEWABLE  
ENERGY  
PROGRAM*

**CALIFORNIA  
ENERGY  
COMMISSION**

**RENEWABLES PORTFOLIO  
STANDARD ELIGIBILITY  
GUIDEBOOK**

**DRAFT GUIDEBOOK**

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Arnold Schwarzenegger, Governor

# **CALIFORNIA ENERGY COMMISSION**

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The Energy Commission established the Renewable Portfolio Standard (RPS) proceeding on March 5, 2003 in response to the statutory requirements of Senate Bill 1078 (Chapter 516, Statutes of 2002, Sher) and Senate Bill 1038 (Chapter 515, Statutes of 2002, Sher), both enacted on September 12, 2002. These laws took effect January 1, 2003 and are codified in Public Utilities Code (PUC) sections 399.11 through 399.15, and sections 381, 383.5, and 445, respectively.

Senate Bill 67 (Chapter 731, Statutes of 2003, Bowen) and Senate Bill 183 (Chapter 666, Statutes of 2003, Sher) were subsequently enacted and revised certain eligibility requirements for out-of-state renewable facilities. These bills were enacted in October 2003 and took effect on January 1, 2004. Senate Bill 67 and Senate Bill 183 are codified in PUC section 399.16 and Public Resources Code (PRC) sections 25740 through 25751, respectively.

This draft guidebook was developed as part of an ongoing collaborative process between the Energy Commission and the California Public Utilities Commission as directed by Senate Bill 1078 which requires the two agencies to work together to implement the RPS. The guidebook reflects current requirements but may need to be revised periodically to reflect market and regulatory developments and lessons learned as California gains experience in implementing the RPS. This guidebook is adopted pursuant to Public Utilities Code section 383.5(h)(1) and PRC section 25747(a), which authorizes the Energy Commission to adopt guidelines to govern its funding programs and portions of the RPS under Senate Bill 1038 and Senate Bill 1078. These guidelines are exempt from the formal rulemaking requirements of the Administrative Procedures Act.

The proposed requirements in this draft guidebook are based on the law as set forth in Senate Bill 1078 and Senate Bill 1038 and revised under Senate Bill 183 and Senate Bill 67, the *Renewables Portfolio Standard Decision on Phase 1 Implementation Issues* (publication number 500-03-023F), the *Renewables Portfolio Standard Decision on Phase 2 Implementation Issues* (publication number 500-03-049F), staff analysis, advice from the Energy Commission's technical support contractor, and public input.

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# Introduction

The Renewables Committee (Committee) of the California Energy Commission (Energy Commission) proposes this draft *Renewable Portfolio Standard Eligibility Guidebook* (Guidebook), pursuant to Senate Bill 1038 (SB 1038, Chapter 515, Statutes of 2002, Sher) and Senate Bill 1078 (SB 1078, Chapter 516, Statutes of 2002, Sher). This draft Guidebook describes the eligibility requirements and process for certifying renewable energy resources as eligible for California's Renewables Portfolio Standard (RPS) and supplemental energy payments (SEP). This draft Guidebook also describes how the Energy Commission will track and verify compliance with the RPS using an interim generation tracking process.

This Guidebook establishes efficient and effective processes that will encourage participation in California's RPS and assure program credibility to the benefit of stakeholders, regulators, and consumer interests. Although this Guidebook addresses the Energy Commission's role in implementing the RPS, the Energy Commission recognizes that the California Public Utilities Commission (CPUC) also has a key RPS implementation role.

SB 1078 establishes the RPS in California and sets a goal for California retail electric retail sellers to increase their sales of renewable electricity by at least one percent per year, such that 20 percent of retail electricity retail sales will be served with renewable resources by 2017.

The statute also establishes specific roles for the Energy Commission and the CPUC and directs the two agencies to work together in implementing the RPS. Although the statute assigns lead roles for specific implementation efforts to each agency, the roles of the two agencies are interrelated. The Energy Commission is responsible for certifying eligible renewable resources and tracking the procurement of such resources to ensure compliance with the RPS. The CPUC is responsible for establishing targets for the amount of eligible renewable resources the IOUs must procure to comply with the RPS, and for verifying that the IOUs comply with the requirements.

In February 2003, the CPUC issued a ruling formalizing collaboration on RPS issues, and in March 2003 the Energy Commission adopted a reciprocal agreement. The Energy Commission subsequently developed this guidebook collaboratively with the CPUC.

While this guidebook reflects current requirements, the Energy Commission recognizes that it may need to periodically revise program guidelines to reflect market and regulatory developments as well as incorporate the lessons learned from experience implementing the RPS.

## Related Reports

This guidebook is one of several guidebooks the Energy Commission has adopted to implement and administer the various program elements of its Renewable Energy Program. The Energy Commission's *Overall Program Guidebook* describes how the Renewable Energy Program will be administered and includes information on requirements that apply to all program elements. To qualify for certification as a renewable energy resource eligible for RPS and SEPs, an applicant must satisfy the requirements specified in this *Renewables Portfolio Standard Eligibility Guidebook* and the *Overall Program Guidebook*.

To receive SEPs, applicants must also satisfy the requirements specified in the Energy Commission's *New Renewable Facilities Program Guidebook* (publication number 500-04-001D). Parties interested in receiving SEPs may refer to the *New Renewable Facilities Program Guidebook* for information on how to apply for and receive SEPs. For general information on the process of creating, appealing, and implementing RPS guidelines, please refer to the *Overall Guidelines for the Renewable Energy Program*. Both guidebooks are available on-line at the Energy Commission's website at <www.energy.ca.gov>.

## Outstanding Issues

This guidebook only addresses RPS certification and verification requirements as they apply to Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), and Southern California Edison Company (SCE). It does not address these requirements as they apply to Electric Service Providers (ESPs) or Community Choice Aggregators (CCAs). The Energy Commission intends to collaborate with the CPUC in an anticipated new CPUC proceeding to address RPS requirements for ESPs and CCAs and, therefore, will not pre-judge those efforts in this guidebook.

Several ongoing issues could affect these guidelines, which the Energy Commission will continue to address collaboratively with the CPUC:

- Renewable Energy Credit (REC) trading:

Consistent with CPUC Decision 03-06-071 (June 19, 2003), for now generation must be bundled with the associated RECs to qualify for the RPS. RECs incorporate all environmental attributes associated with the generation of electricity and should be transferred to the utility and then retired. A REC procured by a utility and used toward the utility's RPS cannot be resold.

However, if and when a record is developed indicating that specific and well-defined attributes need not or should not be bundled, some attributes, such as site remediation or fuel-use, may be separated from the REC procured for RPS compliance. Any action by the Energy Commission and CPUC to allow RECs that are

traded separately from energy to qualify for the RPS would require further deliberations and public input.

- Determining how customer-side renewable distributed generation resources fit into the RPS:

The law includes solar energy as an eligible resource for the RPS, but a variety of issues need to be clarified to determine how best to include distributed photovoltaic resources, as well as other forms of customer-side renewable distributed generation. This guidebook describes these issues in the section on eligibility requirements.

- Defining fuel specific issues:

The Energy Commission will work to further clarify RPS eligibility for certain technologies such as small hydro, geothermal, and municipal solid waste. The Committee also anticipates that new issues may arise that will need to be addressed as implementation begins.

## Guidebook Organization

This guidebook is organized as follows:

1. Introduction
2. Eligibility Requirements
3. Certification Process
4. Interim Generation Tracking System
5. Forms
6. Technical appendices

Section 2 covers eligibility requirements for generators interested in producing electricity that can be procured by retail sellers to comply with the RPS. For the purposes of this guidebook, “retail sellers” refers to California’s three largest investor owned utilities (IOUs): PG&E, SCE, and SDG&E. These entities are also referred to as “electrical corporations” as defined in the glossary included as Appendix B.

Section 2 also addresses eligibility requirements for generators interested in producing electricity that can be procured to comply with the RPS and that is also eligible to receive supplemental energy payments (SEPs)

Section 3 discusses the Energy Commission’s proposed certification process, including the following:

- Pre-certification application process for developers of renewable facilities that are not yet on-line but who are seeking a preliminary determination that their facility will be eligible for the RPS or SEPs.

- Certification application process for generators with renewable facilities that are on-line who are interested in serving energy to meet an RPS obligation or to serve energy that is eligible for SEPs.
- Registration application process for facilities whose owners are interested in registering with the Energy Commission that they are a renewable generator, but are not eligible for the RPS or for SEPs.

Section 4 discusses the data submission requirements for an interim generation tracking system that is used to verify a retail seller's compliance with the RPS and to verify that generation is counted only once in California or any other state

## Eligibility Requirements

This section describes eligibility requirements for the RPS, for SEPs, and for out-of-state facilities that seek RPS or SEP eligibility. In general, a facility is eligible if it uses an eligible renewable resource or fuel, satisfies resource-specific criteria, and is either located within the state or satisfies applicable requirements for out-of-state facilities.

Renewable energy generated by an eligible renewable resource may be counted towards the following three broad RPS categories. The Energy Commission's certification process will identify the categories under which an eligible renewable resource qualifies.

1. **Baseline.** The baseline is established by the CPUC and is initially based on the quantity of eligible renewable energy procured by PG&E, SCE and SDG&E in 2001.
2. **Adjustment to Baseline.** Under the law, some renewable resources count only toward adjusting the baseline. A retail seller may, therefore, use resources subject to this restriction to increase its baseline and more quickly achieve the 20 percent goal.
3. **Annual Procurement Target.** The annual procurement target (APT) is the amount of eligible renewable energy an IOU must procure annually to meet its RPS obligation. The CPUC sets the APT and has established rules to allow for flexible compliance so that a utility may procure more or less than its APT in a given year, subject to applicable rules (Decision 03-06-071, June 19, 2003). Renewable projects that are eligible to meet an IOU's APT may, if certain conditions are met, also be eligible for SEPs.

The CPUC will determine the interrelationship between these three categories, including how changes in an IOU's baseline affect its APT.

## Eligibility for the Renewables Portfolio Standard

The Energy Commission has determined that it is appropriate to define eligible renewable energy resources by renewable resource or fuel rather than by the specific

technology used. For certain eligible renewable energy resources, however, the law contains specific requirements and the Energy Commission must consider both the resource or fuel and the technology to determine RPS eligibility.

To qualify as eligible for California's RPS, a generation facility must use one or more of the following renewable resources or fuels (see Appendix B for full definitions):

- Biomass
- Biodiesel
- Fuel cells using renewable fuels
- Digester gas
- Geothermal
- Landfill gas
- Municipal solid waste
- Ocean wave, ocean thermal, and tidal current
- Photovoltaic
- Small hydroelectric (30 megawatts or less)
- Solar thermal
- Wind

Table 1 summarizes the requirements for a facility to qualify for the RPS and be eligible for SEPs. The table does not reflect any additional requirements that may apply to facilities located out-of-state.

Facilities using biomass, municipal solid waste, geothermal, hydropower, or biodiesel are subject to additional resource or fuel-specific requirements as described below. Also addressed below are requirements for photovoltaic facilities, as well as for hybrid facilities that use a mix of fuels, including those that operate in part by using fossil fuels.

### **Resource or Fuel-Specific Eligibility Requirements**

The following requirements apply to generators seeking RPS certification or RPS and SEP certification for a facility that operates on biodiesel, biomass, geothermal or incremental geothermal, hydropower, municipal solid waste (MSW), photovoltaics, or a mix of fuels in a "hybrid technology."

**Biodiesel:** The electricity produced from combusting biodiesel is eligible for the RPS to the extent that the biodiesel is derived from the following:

1. A biomass feedstock such as "agricultural crops and agricultural wastes and residues" consisting of no more than 25 percent fossil fuel, consistent with the requirements for hybrid technologies (refer to the guidelines for biomass eligibility and for hybrid technologies below), or

**Table 1: Renewables Portfolio Standard Eligibility Requirements for Renewable Electricity Facilities\***

<b>Resource Used</b>		<b>RPS Eligibility</b>	<b>SEP Eligibility</b>
Biomass		Yes, IF facility was originally on-line prior to January 1 2002, then it may use any organic material not derived from fossil fuels.  Facilities originally operational AFTER January 1, 2002 must meet SEP requirements.	Yes, if New or Repowered <u>AND IF</u> meets fuel use specifications, see notes below <sup>1,2,3</sup>
Biodiesel		Yes, subject to RESTRICTION <sup>4</sup>	Yes, if New or Repowered
Digester Gas		Yes	Yes, if New or Repowered
Fuel Cells		Yes, IF a renewable fuel is used.	Yes, if New or Repowered
Geothermal		Yes, RESTRICTED to <u>adjusting the baseline</u> IF the facility was originally operating prior to September 26, 1996.	Yes, if New or Repowered
Incremental Geothermal		Yes, regardless of original operation date, IF certified as Incremental Geothermal Generation. <sup>5</sup>	Yes, IF New or Repowered
Hydroelectric		Yes, RESTRICTED to facilities 30 MW or less, RESTRICTED to counting towards <u>baseline</u> if it was originally operational prior to September 12, 2002.  Facilities originally operational AFTER September 12, 2002 must meet SEP requirements.	Yes, if 30 MW or less, New or Repowered <u>AND IF</u> it does NOT require a new or increased appropriation or diversion of water.
Landfill Gas		Yes	Yes, if New or Repowered
MSW Combustion		Yes, but generation from MSW combustion is RESTRICTED to <u>adjusting the baseline AND is only eligible</u> IF the electric generation facility is located wholly within Stanislaus County and began operating before September 26, 1996.	Combusted MSW is NOT SEP eligible.
MSW Conversion		Yes, if it meets SEP requirements.	Yes, if New or Repowered AND IF it meets the definition "solid waste conversion." <sup>6</sup>
Photovoltaic		Yes <sup>7</sup>	Yes, if New or Repowered
Solar Thermal		Yes	Yes, if New or Repowered
Tidal Current		Yes	Yes, if New or Repowered
Ocean Wave		Yes	Yes, if New or Repowered
Ocean Thermal		Yes	Yes, if New or Repowered
Wind		Yes	Yes, if New or Repowered

## Notes to Table 1

\*Additional requirements may apply to facilities located outside California

<sup>1</sup> **New:** Resources that first begin commercial operation or are repowered on or after January 1, 2002 and meet the other eligibility requirements of Public Utilities Code 383.5(d) are considered "new" and thus eligible for SEPs.

<sup>2</sup> **Repowered:** Repowered generators will be eligible for SEPs if they replace their prime generating equipment and use tax records, or an acceptable alternative, to demonstrate that they have made capital investments in the facility equal to "at least 80 percent of the value of the repowered facility," as required by Public Utilities Code 383.5. For generators with existing long-term contracts originally entered into before September 26, 1996, only generation above and beyond what is already under contract, as determined in accordance with Public Utilities Code section 399.6 (c)(1)(C), may compete to satisfy the RPS obligation of an electrical corporation and be eligible for SEPs.

<sup>3</sup> **New or Repowered Biomass:** New or repowered biomass facilities must certify to the satisfaction of the Energy Commission that fuel utilization is limited to the following pursuant to Public Utilities Code 383.5(d)(6):

(A) Agricultural crops and agricultural wastes and residues.

(B) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(C) Wood and wood wastes that meet all of the following requirements:

(i) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Ch. 8 commencing with Sec. 4511), Pt. 2, Div. 4, Public Resources Code).

(ii) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(iii) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

<sup>4</sup> **Biodiesel:** Electricity produced from biodiesel is eligible for the RPS IF the biodiesel is derived either from 1) a biomass feedstock such as "agricultural crops and agricultural wastes and residues" or as a result of an eligible "solid waste conversion" process (see Municipal Solid Waste Conversion) and 2) consists of no more than 25% Fossil Fuel. Electricity generated from biodiesel derived from biomass fuel or as a result of a solid waste conversion process may also qualify for SEPs if the SEP requirements for biomass or solid waste conversion are satisfied.

<sup>5</sup> **Incremental Geothermal:** Incremental Geothermal Generation is defined as resulting from eligible capital expenditures that reflect:

- 1) a substantial capital project, resulting in replacement of generating equipment or increase in steam converted to generation at a facility;
- 2) a sustainable impact on the underlying reservoir use; that is, a project does not cause an increase in the decline rate of the reservoir; and
- 3) a capital project completion date after September 26, 1996
- 4) AND IF the incremental output was not sold to an electrical corporation under contract entered into prior to September 26, 1996.

<sup>6</sup> **Municipal Solid Waste Conversion:** A technology using a noncombustion thermal process to convert solid waste to a clean burning fuel for the purpose of generating electricity that meets all of the following criteria:

- (i) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.
- (ii) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801 of the Health and Safety Code.
- (iii) The technology produces no discharges to surface or groundwaters of the state.
- (iv) The technology produces no hazardous wastes.
- (v) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that the those materials will be recycled or composted.
- (vi) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.
- (vii) The technology meets any other conditions established by the State Energy Resources Conservation and Development Commission.
- (viii) The facility certifies that any local agency sending solid waste to the facility is in compliance with Division 30 (commencing with Section 40000) of the Public Resources Code, has reduced, recycled, or composted solid waste to the maximum extent feasible, and shall have been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling and composting.

<sup>7</sup> **Photovoltaic:** The CPUC is currently deliberating how to implement the RPS eligibility of distributed generation, particularly solar, and the CEC-CPUC collaborative staff are reviewing it.

2. An eligible “solid waste conversion” process using MSW (refer to the MSW eligibility guidelines below) consisting of no more than 25 percent fossil fuel, consistent with requirements for hybrid technologies.

In addition, the facility must be located in California or satisfy the out-of-state eligibility requirements discussed later in this Guidebook.

**Biomass:** The eligibility requirements for biomass facilities vary depending on the date the facility first commences commercial operation as defined in Appendix B.

Pre-January 1, 2002: The generation from a biomass facility that commenced commercial operations prior to January 1, 2002 is eligible for the California RPS if the facility is located in-state or satisfies the out-of-state eligibility requirements.

Post-January 1, 2002: The generation from a biomass facility that commences commercial operations or is repowered on or after January 1, 2002, is eligible for the RPS to the extent that the facility is located in state or satisfies the out-of-state eligibility requirements, and the facility operator certifies to the satisfaction of the Energy Commission that the fuel used is limited to the following:

1. Agricultural crops and agricultural wastes and residues.
2. Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and range land maintenance residues.
3. Wood and wood wastes that meet all of the following requirements:
  - a. Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Ch. 8 (commencing with Sec. 4511), Pt. 2, Div. 4, Public Resources Code).
  - b. Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.
  - c. Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

When applying for pre-certification or certification of biomass facilities that commence commercial operations on or after January 1, 2002, biomass facility operators must submit a written attestation from the facility's fuel supplier stating that the biomass fuel delivered to the facility meets the applicable statutory requirements. This attestation

must be submitted regardless of whether the facility operator intends to compete for SEPs. Also, biomass facility operators must provide documentation, or make documentation available upon request, verifying on-going compliance with these requirements.

**Geothermal:** The RPS eligibility of geothermal facilities varies depending on the date the facility first commences commercial operations.

Pre-September 26, 1996: Generation from geothermal facilities that began commercial operations before September 26, 1996 is eligible for the RPS only to establish or adjust a retail seller's baseline of eligible renewable energy resources. The facility must also be located in-state or satisfy the out-of-state requirements.

September 26, 1996 to January 1, 2002: Generation from geothermal facilities that began commercial operations on or after September 26, 1996 and before January 1, 2002 is eligible for the RPS. The facility must also be located in-state or satisfy the out-of-state requirements.

Post-January 1, 2002: Generation from geothermal facilities that commence commercial operations or are repowered on or after January 1, 2002 is eligible for meeting the annual procurement requirements of the RPS, provided the facility is located in-state or satisfies the out-of-state requirements.

**Incremental Geothermal:** Incremental generation for geothermal facilities is eligible for the RPS but is limited to generation resulting from eligible capital expenditures as described below. Incremental geothermal generation is eligible for SEPs to the extent that the generation meets the criteria for "new" or "repowered" in-state renewable electricity generation technology facilities described in SB 1038.

To be considered an "eligible capital expenditure," the expenditure must meet the following criteria:

1. Is a substantial capital project that results in replaced generating equipment or increased steam converted to generation.
2. Does not cause an increase in the decline rate of the reservoir.
3. Is a capital project completed after September 26, 1996.

Examples of eligible capital expenditures at a facility are repowering or refurbishing generation equipment, or using the geothermal energy more effectively to increase generation, such as adding a binary bottoming cycle. An example of an eligible capital expenditure at a steamfield is increasing production from the steamfield through increased water injection.

**Small Hydroelectric:** The RPS eligibility of small hydroelectric facilities varies depending on the date the facility first commences commercial operations.

Pre-September 12, 2002: Generation from a small hydroelectric facility that commences commercial operations before September 12, 2002 is eligible only for purposes of establishing an electrical corporation's RPS baseline and only if the facility meets all of the following criteria:

- The facility is 30 MW or less.
- The facility is located in-state or satisfies the out-of-state requirements.
- The facility was owned by an electrical corporation as of September 12, 2002, or the generation produced was procured by an electrical corporation as of September 12, 2002.

Post-September 12, 2002: Generation from a small hydroelectric facility that commences commercial operations or is repowered on or after September 12, 2002 and is 30 MW or less is eligible for the California RPS if it does not require a new or increased appropriation or diversion of water. A new or repowered small hydroelectric facility is NOT eligible for the RPS if it requires any of the following:

- A new or revised permit from the State Water Resources Control Board (SWRCB) for a new appropriation of water.
- An increase in the amount of water appropriated under a permit that existed as of September 12, 2002 if the increase would require a new or revised permit from the SWRCB.
- A new diversion of water, even if that diversion was authorized under a permit that existed as of September 12, 2002, if the diversion would require a new or revised permit from the SWRCB.
- An increase in the amount of water diverted over the amount that was diverted as of September 12, 2002, if the increase would require a new or revised permit from the SWRCB.
- A change in the timing of water released or withdrawn if the change in timing would require a new or revised permit from the SWRCB.

Most likely, only the repowering of existing facilities, the addition of a new turbine at an existing facility, or the addition of a turbine in a man-made conduit is likely to qualify for the RPS. Even in this situation, the applicant is responsible for showing that its project qualifies for the RPS. Information required for small hydropower applicants is discussed below.

The Committee interprets the 30-MW size limit to apply to the total hydro project. Consequently, the facility must not exceed 30 MW, including any incremental increases to the efficiency or size of the facility. For example, a 5-MW incremental addition to a 50-MW facility would not qualify for the RPS because the facility exceeds the 30-MW size limit.

**Municipal Solid Waste:** Applicants representing facilities using MSW fall into two categories:

1. **Combustion Facilities:** A facility that directly combusts MSW to produce electricity is only eligible for the RPS if it is located in Stanislaus County and was operational prior to September 26, 1996. The generation from such facilities is eligible for RPS only to initially establish or adjust a retail seller's baseline quantity of eligible renewable energy resources.

Applicants for combustion facilities must submit documentation to the Energy Commission demonstrating that the facilities meet the requirements specified above.

2. **Solid Waste Conversion Facilities:** A facility that uses a non-combustion thermal process to convert MSW to a clean burning fuel that is then used to generate electricity is eligible for the RPS if the facility meets all of the following criteria in accordance with Public Utilities Code section 383.5(b)(1)(C), as amended by Public Resources Code section 25741(a)(3):
  - a. The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.
  - b. The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801 of the Health and Safety Code.
  - c. The technology produces no discharges to surface or groundwaters of the state.
  - d. The technology produces no hazardous wastes.
  - e. To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.
  - f. The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.
  - g. The technology meets any other conditions established by the State Energy Resources Conservation and Development Commission.

- h. The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling and composting.

**Distributed Generation:** Generation from facilities using solar energy is eligible for the RPS. Both central station and distributed facilities are eligible, but the Energy Commission has not yet determined how to include distributed generation into RPS compliance or guidelines.

Solar thermal electric central station facilities delivering electricity to the grid are relatively straightforward to integrate into RPS implementation, because the generation can be readily measured and procured towards meeting RPS requirements. It is possible that a photovoltaic (PV) central station could also produce electricity that is eligible for the RPS with standard metering employed for central station facilities.

Distributed PV facilities and other distributed renewable energy technologies, however, have qualities that make them more difficult than central station facilities to integrate into RPS implementation. For example, distributed PV facilities are typically small-scale applications designed to meet on-site energy demands. In addition, generation from distributed PV may be metered differently than central station facilities or not metered at all. Also, as described in the *New Renewable Facilities Program Guidebook*, on-site generation is not eligible for SEPs.

Both the Energy Commission and the CPUC have roles in determining RPS implementation for distributed generation. However, the Committee recommends deferring decisions on how to integrate distributed PV and other forms of customer-sited renewable energy into the RPS until the CPUC has further addressed RPS implementation issues for distributed generation.

The CPUC recognizes the uniqueness of distributed generation and shows an interest in advancing its deployment in Decision 02-10-062, which states:

In addition to these provisions in SB 1078, we include in our definition of renewable generation, for purposes of compliance with both D.02-08-071 and SB 1078, renewable distributed generation (DG) on the customer side of the meter. Customer-side distributed generation that utilizes the technologies listed in the first paragraph of this Section of the decision is eligible for RPA (sic.) participation. Including renewable DG as part of our definition will serve to encourage its installation, regardless of whether the utility purchases the output or whether it serves to meet on-site load.

The rules for implementing the CPUC decision are still under deliberation. Outstanding issues include:

- How much of the electricity production should be eligible to count towards the RPS

- Whether the RECs associated with electricity consumed on-site can be counted towards the RPS
- What party has the property rights to the RECs associated with renewable distributed generation
- How renewable DG generation for RPS compliance can be measured, reported, and accounted for

Collaborative staff articulated the outstanding issues and solicited public input on October 20, 2004 by issuing: "CPUC-CEC Collaborative Staff Data Request: Inviting Comments on Renewable Distributed Generation in the Renewable Portfolio Standard Program." The responses to the data request are under consideration.

**Hybrid Systems:** In the past, the Energy Commission's Renewable Energy Program (REP) provided that renewable facilities using fossil fuels were eligible for funding as long as the percentage of fossil fuel used did not exceed 25 percent of the total energy input of the facility during a given calendar year. As long as a facility did not use more than 25 percent fossil fuel, the total generation, including the generation produced from fossil fuel use, was considered renewable by the Energy Commission.

This 25 percent limitation arose from the requirement in SB 90 that participating facilities be qualifying facilities under the Public Utility Regulatory Policies Act. SB 1038, however, does not include this requirement for facilities seeking post-2002 funding. Therefore, the Committee is considering lowering the allowable percentage of fossil fuel that a renewable facility may use and still count all of its generation eligible for the RPS. The renewable generation from a facility that uses more than that reduced percentage could still be eligible for the RPS, but only if it is separately-metered.

The Committee proposes allowing pumped storage hydro to qualify for the RPS to the extent that: 1) the facility meets the eligibility requirements for small hydro, and 2) the electricity used to pump the water qualifies as RPS eligible.

## Eligibility for Supplemental Energy Payments

A facility that is eligible for the RPS may also be eligible for SEPs. To qualify as eligible for SEPs, a facility must meet the RPS eligibility requirements above, as well as the additional requirements below.

1. The facility is either:
  - a. "new," meaning the facility first commences commercial operations on or after January 1, 2002, with the commercial operation date used to designate a facility as "new" to be periodically updated by the Energy Commission, or

- b. “repowered,” such that the prime generating equipment of the facility is replaced and the applicant demonstrates that the capital investments equal “at least 80 percent of the value of the repowered facility,” as required by SB 1038. A facility only qualifies as “repowered” if the investments were made on or after the commercial operations date that distinguishes “new” facilities. More information about the requirements to qualify as a repowered facility is provided in the section on certification.
2. If a facility has an existing long-term contract originally entered into before September 26, 1996, then only generation that is above and beyond what is already under contract, as determined in accordance with Public Utilities Code section 399.6 (c)(1)(C), may compete to satisfy the RPS obligation of an electrical corporation.

For information about applying for and receiving SEPs, please refer to the *New Renewables Facilities Program Guidebook*, publication number 500-04-001D.

## Eligibility of Out-of-State Facilities

The generation from a renewable facility located out-of-state may be eligible for the RPS and SEPs if the facility meets the eligibility requirements described above and in addition satisfies all of the requirements in one of the following categories:

- 1. The facility:
  - a) Has its first point of interconnection to the Western Electricity Coordinating Council (WECC) transmission system within the state, as defined in Appendix B
  - b) Participates in the Energy Commission’s RPS tracking and verification system
- 2. The facility:
  - a) Is located so that it is or will be connected to the WECC transmission system
  - b) Is developed with guaranteed contracts to sell its power to end-users subject to the funding requirements of Public Utilities Code section 381 (i.e. end use customers of California IOUs) during the period in which it receives SEPs
  - c) Does not cause or contribute to any violation of a California environmental quality standard or requirement
  - d) If it is located outside the United States, is developed and operated in a manner that is protective of the environment as a similar facility located in California
  - e) Participates in the Energy Commission’s RPS tracking and verification system
  - f) Meets any other conditions established by the Energy Commission in the future.

Out-of-state generators falling within category 1 or 2 above are subject to the same deliverability requirement as in-state generators. All generators must deliver their power to an in-state market hub or in-state substation in the WECC transmission system. The specific in-state delivery location may be designated by the contracting IOU under the power purchase agreement between the IOU and renewable supplier.

A third category exists for out-of-state facilities that are eligible for RPS only, not SEPs. These facilities must meet all of the following criteria:

1. Have guaranteed contracts to sell their generation to retail sellers or the Independent System Operator.
2. Demonstrate delivery of their generation to the in-state market hub or in-state substation of the WECC transmission system designated by the retail seller or the Independent System Operator.
3. Participate in the Energy Commission's RPS tracking and verification system.

## Certification Process

This section covers pre-certification and certification of renewable facilities eligible only for the RPS, eligible for both the RPS and SEPs, and for registration as renewable only (not RPS eligible). This section also describes required supplemental information for renewable facilities using technologies that must meet special eligibility requirements.

Any facility operator interested in generating electricity for an IOU to count towards its RPS procurement must certify the facility with the Energy Commission. Electricity generation can not be counted towards meeting an RPS obligation until the facility is certified as a Renewable Supplier Eligible for the RPS or as a Renewable Supplier Eligible for the RPS and SEPs.

If an IOU procures electricity from a facility prior to certification, that energy may count towards the RPS obligation once the facility becomes certified and the facility shows that it was eligible at the time of the procurement. For example, procurement in 2001 through 2003 may count towards an IOU's RPS obligation even though facilities were not RPS certified at the time of procurement. The electricity will not be considered eligible, however, and will not be counted towards meeting an RPS obligation, until the facility is certified. This applies to all facilities regardless of whether or not they previously registered with the Energy Commission's Renewable Energy Program.

In applying for certification, the facility operator agrees to participate in the Energy Commission's generation tracking system. For more information about the tracking system, refer to the section of this guidebook titled, "Interim Generation Tracking System."

The generation from facilities certified as eligible for RPS may be claimed by the procuring IOU for purposes of establishing the IOU's baseline, adjusting its baseline, or meeting its annual procurement requirements, depending on the eligibility requirements established by law. The generation from facilities certified as eligible for RPS and SEPs may qualify for SEP funding under the Energy Commission's New Renewables Facilities Program. To receive SEPs, eligible facilities must satisfy the requirements specified in the Energy Commission's *New Renewables Facilities Program Guidebook*, publication number 500-04-001D.

## **Applying for Certification and Pre-Certification**

Applicants wishing to certify their facility as eligible for the RPS or as eligible for the RPS and SEPs consistent with the eligibility requirements noted above, must submit a completed CEC-RPS-1 form, along with any necessary backup materials, to the Energy Commission at the address shown on the form. The Energy Commission will review the application to determine eligibility as a Renewable Supplier Eligible for the RPS or as a Renewable Supplier Eligible for the RPS and SEPs.

Provisional or "pre" certification as an eligible renewable resource is available for applicants whose facilities are not yet on-line. The information submitted by these applicants will be subject to further verification once the pre-certified facility has been completed. Applicants must indicate their desire to be pre-certified on their completed CEC-RPS-1 form.

The Energy Commission shall make every effort to notify applicants of their eligibility status as soon as possible. For facilities that are not required to submit supplemental information as described below, the Committee recommends that the Energy Commission review and process applications for certification and pre-certification within 10 business days of their receipt, unless questions or concerns arise regarding the applications. If questions arise, the applicant will be contacted and may be asked to submit additional information. The Committee recognizes that the Energy Commission may receive a large volume of applications at the onset of this program and that the 10-day goal may not be met.

The Energy Commission will notify applicants in writing of its determination on the application for certification. If the application for certification or pre-certification is approved, the Energy Commission will issue a certificate stating that the facility is certified or pre-certified as eligible for the RPS, or eligible for the RPS and SEPs as appropriate. The applicant will also be assigned a supplier identification number to be used in all subsequent transactions.

For applicants that must submit supplemental information, such as for small hydroelectric, incremental geothermal, MSW/solid waste conversion, or repowered facilities, the Energy Commission must conduct an extensive review of the supplemental data. The Energy Commission anticipates that review of these applications will require a minimum of 30 days from when the complete application is

received. The 30-day clock starts on the date a complete application is date-stamped by the Energy Commission as received. After completing its review, the Energy Commission will either notify the applicant and the public of its proposed determination, or will request additional information from the applicant.

Applicants or other interested parties that disagree with the Energy Commission's determination on certification or pre-certification applications may petition the Committee and the Energy Commission for reconsideration as described in the *Overall Guidelines for the Renewable Energy Program*. As described in the *Overall Guidelines*, the Committee intends to issue decisions on petitions for reconsideration within 45 days of receipt of a complete petition. The 45-day clock starts on the date a complete petition is date-stamped by the Energy Commission as received.

Once a facility is certified or pre-certified, its representatives must notify the Energy Commission in a timely manner of any material changes in information previously submitted to the Energy Commission or face disqualification. Certification must be renewed once every two years to confirm that all certified renewable energy resources remain eligible for the RPS. In addition, if a certified or pre-certified facility does not respond to the Energy Commission's request for an information update in a timely manner, it will risk losing its certification status.

The Energy Commission will post information on its website listing which facilities are certified as eligible for the RPS or for the SEPs. Any changes in a facility's certification status will also be posted on the Energy Commission's website.

Consistent with the *Overall Guidelines for the Renewable Energy Program*, the Energy Commission may conduct periodic or random reviews to verify records submitted for certification or pre-certification as a Renewable Supplier eligible for the RPS or for the RPS and SEPs. Further, the Energy Commission may conduct on-site audits and facility inspections to verify compliance with the requirements for certification or pre-certification. The Energy Commission may request additional information it deems necessary to monitor compliance with the certification requirements specified in this Guidebook.

## Supplemental Information

The following supplemental instructions apply to applications for biomass, small hydroelectric, incremental geothermal, and MSW/solid waste conversion facilities. Supplemental instructions are also included for applicants seeking certification of repowered facilities. The information described below must be submitted as an attachment to the applicant's completed CEC-RPS-1 form.

### Supplemental Instructions for Biomass Facilities

Applicants for certification or pre-certification of biomass facilities that commenced commercial operations on or after January 1, 2002 must submit an attestation attached

to the applicant's completed CEC-RPS-1 that they comply or will comply, in the case of pre-certification, with the biomass fuel requirements described above.

Additionally, SB 183, as codified in Public Resources Code 25748, requires the Energy Commission to, "...identify the types and quantities of biomass fuels used by facilities receiving funds pursuant to Section 45743 and their impacts on improving air quality." To meet this requirement, any invoice for SEPs for electricity generated by a biomass facility must include backup material describing the biomass supply as follows: the date(s) of delivery, the job number, number of truckloads, type of biomass, tons of biomass, the air district from which the biomass originated, and an attestation that the biomass fuel continues to meet the RPS eligibility standards.

### **Supplemental Instructions for Small Hydropower Facilities**

To demonstrate that a hydropower facility built or repowered on or after September 12, 2002 is eligible for the RPS and SEPs, the applicant must provide the following water-use data and documentation attached to its completed CEC-RPS-1 form to substantiate its self-certification. These requirements are consistent with the information found in the State Water Resources Control Board's Statement of Water Diversion and Use. Those applicants possessing a permit from the State Water Resources Control Board must submit a copy of the permit as well as the application for the permit.

1. Name of the Facility
2. Ownership of the Facility
3. Source Water Description

The application must identify the source of the water for the small hydro project. The source must be characterized as surface, groundwater or other (for example, recycled water). For surface water sources, a map at a scale of 1:24,000 must be provided. The map should also identify the location of the diversion point and all other facilities. In addition, a written description of the location of the diversion should be provided (longitude and latitude) as well as the name of the body of water at the point of diversion. For groundwater, the location of the well(s) and conveyance facilities shall be identified on a map of 1:24,000 scale. The applicant must also specify how much water is used for each of the identified beneficial uses.

4. Water Rights

The applicant must document its right to appropriate and/or divert water by submitting water appropriation permits from the State Water Resources Control Board. For pre-1914 appropriations or riparian water rights, copies of the last five Statements of Water Diversion and Use are sufficient. These permits and reports will document the right to appropriate and/or divert water as well as identify the

permitted volume and timing of water diversions, place of diversion and beneficial uses.

For conduit projects using surface water, the water appropriation permit or the last five Statements of Water Diversion and Use are required.

## 5. Hydrologic Data

The applicant must submit appropriation and/or diversion data for the last five years. Information contained in the last five Statements of Water Diversion and Use is sufficient for projects that submit that information to the State Water Resources Control Board. For other projects, the hydrologic data submitted must be accompanied by a description of how the data is collected. Flow data shall be provided at the frequency set forth in the water appropriation permit; for example, if the permit specifies minimum and maximum flows on a monthly basis, that is the level of information necessary to be submitted. For historic flow levels over the last five years that are less than the permitted levels, Energy Commission will consider the average flow as baseline in determining whether the project requires an increase in diversions.

## 6. Other Permits

The applicant must submit all other applicable permits, including those permits and exemptions issued by the Federal Energy Regulatory Commission.

## 7. Environmental Documentation

The applicant must submit copies of any permits, agreements, contracts or other requirements affecting the operation of the facility, especially those that affect the volume and timing of flows.

## 8. Capacity

The applicant must demonstrate how the project will comply with the size limitations under the RPS. For repowering projects, the applicant must describe how capacity will be increased without an increase in the appropriation and/or diversion of water or in the change in the timing of flows.

## **Supplemental Instructions for Incremental Geothermal Facilities**

Applicants must provide the following information attached to its completed CEC-RPS-1 form when applying for certification as an incremental geothermal facility.

- a) Evidence that the incremental generation from the facility resulted or will result from an eligible capital expenditure in a project completed after September 26, 1996. The capital investment must be in new or replaced capacity or steam production, and

must exclude monies that would have been spent on operation and maintenance in the normal course of doing business.

- b) The expected total quantity, in megawatt hours, of the production increase from the facility resulting from, or expected to result from, the capital investment and how long the increased production level is expected to last.
- c) The relationship between the capital investment and the production increase from the facility, including a discussion of the nature of the capital improvements and how they resulted in the incremental generation.
- d) The trend of historical generation from the facility, extending over enough time to establish that trend accurately, along with a discussion and projection of the trend over the expected lifetime of the project.
- e) If applicable, the rationale for assigning overall steamfield incremental geothermal production to an individual generating facility within that steamfield.
- f) A discussion of the sustainability of increased production from the facility. The discussion should show how the capital investment is consistent with, and protective of, the long-term preservation of the geothermal resource and also demonstrate that increased production from the facility in the short-term is not overdrawing the resource and leading to overall diminished production in the long-term.
- g) A discussion of the way any certified incremental production from the facility can be verified, measured, and guaranteed.

In substantiating a claim of incremental geothermal production, the burden of proof will be on the applicant for the geothermal facility to submit compelling evidence demonstrating the effect that capital expenditures have had on production. As applicable, applicants also have the responsibility of properly allocating any increase among different generating facilities in the same steamfield.

In addition, all data submitted to substantiate a claim are expected to be public, although the Energy Commission is only interested in data with a direct bearing on the claim. For example, although information on capital investments and the resulting production increases is expected to be submitted publicly, the Energy Commission has no interest in any proprietary underlying economic analyses that may have led to the decision to make such investment.

### **Supplemental Instructions for Municipal Solid Waste Conversion Facilities**

Applicants for solid waste conversion facilities must provide copies of permits issued by the California Integrated Waste Management Board (CIWMB) attached to its completed CEC-RPS-1 form to verify compliance with the requirements specified above. The Energy Commission will verify compliance in consultation with the CIWMB and based

on CIWMB's proposed regulations for solid waste conversion technologies as set forth in Title 14, California Code of Regulations, Division 7, Chapter 3, Article 6.0, commencing with section 17400. These regulations are being adopted pursuant to Assembly Bill 2770 (Chapter 704, Statutes of 2002, Mathews), which establishes requirements for solid waste conversion technologies that mirror the requirements for these technologies found in SB 1038. The proposed regulations are part of CIWMB's Transfer/ Processing Operations and Facilities Regulatory Requirements and will require facilities using solid waste conversion technologies to obtain a Conversion Technology Facility Permit. Pending the adoption of the proposed regulations, the CIWMB may permit facilities using solid waste conversion technologies on a case-by-case basis pursuant to its existing regulations for the Transfer/Processing Operations and Facilities Regulatory Requirements.

To become certified as a renewable energy resource eligible for RPS (and SEPs), an applicant for a solid waste conversion facility must submit to the Energy Commission a copy of its Conversion Technology Facility Permit approved by the CIWMB. In the event that CIWMB's regulations for solid waste conversion technologies are not adopted at the time the facility seeks RPS certification, the facility must request and obtain from CIWMB a Solid Waste Facility Permit under CIWMB's existing regulations for the Transfer/Processing Operations and Facilities Regulatory Requirements. The Energy Commission will confirm that the permit is approved, active, and applicable to the facility seeking RPS certification. These permits must demonstrate the following:

1. The facility is only using a "gasification" conversion technology, as defined in Public Resources Code section 40117
2. The facility accepts and processes "solid waste" as defined in Public Resources Code section 40191, and is not limited to receiving and processing "source separated" waste as defined in Title 14, California Code of Regulations, section 17402.5(b)(4)
3. The facility processes solid waste from which, to the maximum extent feasible, all recyclable materials and marketable green waste compostable materials have been removed prior to the solid waste conversion process

In addition, an applicant must certify to the Energy Commission the following:

1. All recyclable materials and marketable green waste compostable materials which have been removed from solid waste delivered to the facility are recycled or composted.
2. Any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this certification "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

To become pre-certified as RPS and SEP eligible, the applicant must submit to the Energy Commission the information required to receive a Conversion Technology Facility Permit from CIWMB. In the event CIWMB's regulations for solid waste conversion technologies have not been adopted at that time, then the applicant must submit to the Energy Commission the information required to receive a Solid Waste Facility Permit. This information is identified in Title 14, California Code of Regulations, sections 18221.5 and 18221.6. The Energy Commission will review this information in consultation with the CIWMB to determine if the information is complete and satisfies the legal requirements specified in Public Utilities Code section 383.5(b)(1)(C), as amended by Public Resources Code section 25741(a)(3).

If a pre-certified applicant does not obtain a Conversion Technology Facility Permit from CIWMB by the time the project commences commercial operation, or if it is denied approval for a permit, the Energy Commission will revoke the applicant's pre-certification.

### **Supplemental Instructions for Repowered Facilities**

To apply for certification as a repowered facility, an applicant must submit a completed CEC-RPS-1 form, along with documentation confirming the replacement of the facility's prime generating equipment and the capital investments made to repower the facility, as well as the value of those investments.

1. Prime Generating Equipment: The applicant must document that the facility's prime generating equipment is new and was replaced after January 1, 2002.

- The "prime generating equipment" for each renewable resource is defined as follows:
  - Wind: the entire wind turbine, including the generator, gearbox (if any), nacelle, and blades.
  - Biomass: the entire boiler. Stoker boilers may be replaced with boilers using improved stoker technology or fluidized bed technology.
  - Geothermal: the entire steam generator, including the turbine rotors, shaft, stationary blades, and any gear assemblies.
  - Small hydroelectric: the entire turbine and structures supporting the turbine.
  - Solid waste conversion: the entire gasifier (gasifying equipment) and combustion turbine.
  - Landfill gas: the entire internal combustion engine or combustion turbine as applicable.

- Digester gas: the entire digester unit and internal combustion engine or combustion turbine as applicable.
  - Solar thermal: the entire steam turbine.
  - All prime generating equipment at the facility must be replaced with new equipment for the facility to qualify as a repowered facility. For example, a 25-MW wind facility consisting of 50 separate wind turbines must at a minimum replace each of the 50 wind turbines with new turbines of like or greater capacity for the entire 25-MW facility to qualify as a repowered facility. The Energy Commission recognizes that a wind facility owner may want or need to repower only a portion of the turbines owned at a site, and does not exclude that option. In the event that a generator is interested in repowering a portion of a site, then it will need to re-certify or re-register the remaining portion of the site that is not being repowered.
2. Capital Investments: The applicant must document that capital investments were made on or after January 1, 2002 on that portion of the facility that contributes directly to the production of electricity.
- Electrical Generators and/or Fuel Processing and Delivery Equipment: It is generally not necessary for a facility to replace its existing electrical generators or fuel processing and delivery equipment, because replacing this equipment will produce little or no improvement to the facility's efficiency and, therefore, does not warrant the additional expense. Exceptions are cases in which the electrical generator is an integral part of the prime generating equipment, such as for wind facilities, or where the fuel processing and delivery equipment is an integral part of the prime generating equipment via the fuel conversion process, such as for solid waste conversion facilities and digester gas facilities. The facility's environmental control equipment, such as air pollution control equipment, would not be considered because such equipment does not contribute directly to the production of electricity.
  - Any associated process control equipment and structures used for structural support of the prime generating equipment, electrical generators, fuel processing and delivery equipment and associated process control equipment, as appropriate, would also fall into this category and are generally not necessary to replace.

The applicant must provide documentation, such as invoice receipts, verifying the replacement of the old equipment, as well as other components of the technology relevant to the repowering application. The Energy Commission will confirm that the equipment listed is appropriate for certification as a repowered facility.

The applicant must document the value of the capital investments made to the facility and the total value of the repowered facility. The value of the capital

investments must equal at least 80 percent of the total value of the repowered facility.

The “repowered facility” is defined as all of the new and/or existing prime generating equipment, electrical generators, fuel processing and delivery equipment, and any associated process control equipment and structures at the facility. The land on which the facility sits will not be considered part of the repowered facility for purposes of determining the 80 percent threshold. Similarly, intangibles such as the value of a facility’s power purchase agreement or its goodwill will not be considered part of the repowered facility.

The applicant may show that it has met the 80 percent threshold either by submitting tax records or an assessment of the “replacement value” of the facility along with documentation of the cost of the new equipment. The applicant must notify the Energy Commission which method it is using and provide the appropriate information as described below.

a. Tax Records Methodology:

The applicant must submit to the Energy Commission all relevant tax records needed to demonstrate that the capital investments made to repower the facility equal at least 80 percent of the value of the repowered facility.

- 1) The applicant must document the value of the capital investments, and the year the investments were made. In this case, the value of capital investments is the original tax “basis” declared to the Internal Revenue Service to calculate depreciation. The tax basis should reflect the value of the equipment the applicant has attested to purchasing. The tax basis is generally what a business pays for an item to be depreciated.
- 2) The applicant must document the value of the repowered facility. In this case, the value of the repowered facility is based on the sum of the tax basis declared for all of the equipment and structures in the repowered facility as of the year the facility is repowered. For new equipment and structures, the value of the repowered facility is the original tax basis; for existing equipment and structures, the value of the repowered facility is the tax basis as adjusted for depreciation. For facilities financed using a sale/lease-back or similar structure, the original tax basis of the equipment and structures for both the lessor and lessee will be considered.
- 3) The applicant must divide the total value of capital investments by the total value of the repowered facility. This calculation must show that the investment is equal to or greater than 80 percent of the total value of the facility for it to qualify as repowered.

b. Replacement Value Methodology:

This alternative approach may make it more difficult for a facility to meet the 80 percent repowering threshold but is a reasonable alternative for parties who are unable or unwilling to secure the necessary tax records to utilize the adjusted tax basis approach.

- 1) The applicant must document the value of the equipment replaced in the facility. The replacement cost of new equipment is based on the equipment's purchase price and, consequently, is the same value when compared to the adjusted tax basis approach.
- 2) The applicant must submit an independent evaluation of the replacement cost of existing, unreplaced equipment ("retained equipment"). The evaluation should be an estimate of the capital costs that would have to be incurred to replace the retained equipment. This estimate must be provided by an accountant in good standing with the American Institute of Certified Public Accountants or a member in good standing and certified as an Internal Auditor with the Institute of Internal Audits.
- 3) The applicant must divide the total value of capital investments by the sum of the replacement cost of the new equipment and the independent estimate of the replacement cost of the retained equipment. This calculation must show that the investment is equal to or greater than 80 percent of the total value of the facility for it to qualify as repowered.

## **Amending Certification and Pre-Certification**

Certified and pre-certified facilities must notify the Energy Commission in a timely manner of any material changes in information previously submitted to the Energy Commission. A facility failing to do so risks losing its certification status. Any changes affecting the facility's certification status should be reported on CEC-RPS-2 form. If there are any changes to the status of a facility's certification, the new information will be posted on the Energy Commission's website and any affected utility contracting with that facility will be promptly notified.

## **Registration as Renewable Only (not RPS eligible)**

Applicants representing facilities that do not meet the RPS or SEP eligibility requirements may apply to the Energy Commission for "registration" as a Renewable Supplier. To qualify for registration as a Renewable Supplier, a facility must satisfy the following requirements:

1. The facility must use one or more of the following energy sources, as defined in Appendix B, to generate electricity: biomass, biodiesel, fuel cells using renewable fuels, digester gas, geothermal, landfill gas, municipal solid waste, ocean wave,

ocean thermal, tidal current, photovoltaic, small hydroelectric (30 megawatts or less), solar thermal, or wind.

2. The facility must specify the type and percentage of any fossil fuel used in the facility.

Applicants must submit a completed form CEC-1038E-1, Registration Form for Renewable Suppliers, to the Energy Commission.

The Energy Commission expects to review and process complete applications for registration within 15 business days of their receipt; unless questions or concerns arise regarding the applications. If questions arise, the Energy Commission will contact the applicant for additional information. Otherwise, the Energy Commission will notify applicants in writing once it determines registration eligibility.

Once the Energy Commission approves an application for registration, the Energy Commission will issue a certificate stating that the facility is a registered Renewable Supplier, along with a supplier number to be used in all subsequent transactions. The certificate will also specify the amount of fossil fuel used by the facility.

Registration as a Renewable Supplier does **NOT** imply Energy Commission endorsement or verification of renewable status. Registration as a Renewable Supplier merely indicates that the applicant has certified under penalty of perjury that its facility meets the registration requirements of a Renewable Supplier and has obtained an identification number from the Energy Commission.

## Generation Tracking System

The Energy Commission is responsible for tracking renewable transactions to verify compliance with the RPS. Pursuant to SB 1078, the Energy Commission is required to:

Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that renewable energy output is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, and for verifying retail product claims in this state or any other state. In establishing the guidelines governing this system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission.

The Energy Commission is developing an electronic tracking system to meet this requirement, and will use an interim generation tracking system until the electronic

system is operational. The Energy Commission requests that the CPUC direct the IOUs to report their procurement of renewable electricity in year 2003 on April 1, 2004. Procurement in year 2004 should be reported April 1, 2005. The Energy Commission requests that the IOUs be directed to submit the information on form CEC-RPS-Track. The form and directions are provided in Appendix A.

The Committee anticipates that once the electronic tracking system is in place, referred to as the "Western Regional Electricity Generation Information System," the Energy Commission will require renewable suppliers and IOUs to participate in the system as part of RPS compliance.

# Appendix A

## FORMS

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- Interim Data Collection
- Certification and Pre- Certification Form (CEC-RPS-1), *to be developed*
- Certification and Pre- Certification Amendment Form (CEC-RPS-2), *to be developed*

**REPORT to the  
CALIFORNIA ENERGY COMMISSION c/o the  
CALIFORNIA PUBLIC UTILITIES COMMISSION:  
Utility Procurement of  
Renewable Energy in 2003**

**GENERAL INSTRUCTIONS**

Please enter your company's name, CPUC registration number as filed with the California Public Utilities Commission, or CEC identification number (if applicable).

Company Name	
CPUC Reg # (if applicable)	
CEC Reg # (if applicable)	

Fill out Schedule 1 and e-mail the completed file to the address shown below. Then print out the file, sign the attestation as appropriate, and mail the package to the address shown below:

**California Energy Commission**  
**e-mail: [hraitt@energy.state.ca.us](mailto:hraitt@energy.state.ca.us)**

Heather Raitt  
California Energy Commission  
1516 9th Street  
Sacramento, CA 95818

**Responses to this request are due by close of business April 15, 2004**

## Schedule 1-2003 Purchases

### Report to the California Public Utilities Commission

#### SCHEDULE 1: Annual Renewable Energy Purchases in 2003

INSTRUCTIONS: Enter information about power purchases made from all renewable facilities in 2003, regardless of their classification as an "eligible renewable energy resource" as defined in Public Utilities Code Section 399.12(a). If you need additional rows, add them from the INSERT menu.

SPECIAL INSTRUCTIONS FOR PARTICIPANTS THAT PURCHASED RENEWABLE ENERGY CERTIFICATES: Place a check mark in the column titled "Renewable Attribute: Included" to indicate any transactions that were accompanied by RECs. This includes all renewable energy transactions in which the renewable attributes and energy remained bundled together. Place a check mark in the column titled "REC-Only Purchase" if energy was not purchased along with the RECs.

PLEASE COMPLETE the field labeled "Total Retail Sales in 2003 in kWh" to indicate the base of retail sales against which the renewable energy purchases will be compared.

SPECIFIC RENEWABLE ENERGY PURCHASES													
Facility Name	Fuel Type	EIA ID Number <sup>1</sup>	CEC ID Number <sup>2</sup>	Certificate Number <sup>3</sup>	CEC RPS Certification Number <sup>4</sup>	ISO ID Number	Other Facility Identifier <sup>5</sup>	Gross kWh Purchased or Generated <sup>6</sup>	kWh Resold or Self-Consumed	Net kWh Purchased	Method of accounting line losses in Net kWh column <sup>7</sup>	Renewable attributes included? <sup>8</sup>	REC-Only Purchase? <sup>9</sup>
										-			
										-			
										-			
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										-			
										-			
										-			
										-			
										-			
										-			
										-			
										-			
										-			
										-			

**Total Retail Sales in 2003 in kWh<sup>10</sup>**

#### GENERIC PURCHASES<sup>11</sup>

Gross kWh Purchased	kWh Resold	Net kWh Purchased
		-
<b>Total Net Purchases</b>		-

<sup>1</sup> Please enter the Energy Information Administration identification number for the generating facility, if available.

<sup>2</sup> Please enter the Energy Commission Renewable Energy Program Registration number for the generating facility, if applicable.

<sup>3</sup> Please enter the California Energy Commission's assigned unique number for the Certificate of Specific Generation, if applicable.

<sup>4</sup> Please enter the California Energy Commission RPS Certification number for the facility, if available.

<sup>5</sup> Please enter an alternative facility identifier such as a FERC number or QF ID number if the facility does not have a CEC or EIA number.

<sup>6</sup> Please enter all kWh purchased by the retail seller or generated by a facility owned by the retail seller.

<sup>7</sup> Indicate whether a Generation Meter Multiplier (denote GMM), ISO settlement data (denote ISO), or another method (please indicate) was used to apply a line loss factor in computing Net kWh purchased, such as use of a Generation Meter Multiplier (GMM). If no line loss factor was used, denote "None".

<sup>8</sup> Do not check this box if the renewable attributes or Renewable Energy Credits (RECs) were sold to a separate party. If the purchases were for both the commodity energy and renewable attributes covering the net, a check should be entered into the box.

<sup>9</sup> Check this box if RECs, tradeable green certificates, or equivalent purchases were made without purchasing commodity energy.

<sup>10</sup> If this value differs from utility FERC Form 1 filing for this year, please detail the discrepancy in a comment box or footnote.

<sup>11</sup> This box is for purchases for which the ID of the generator cannot be identified, such as out-of-state mix of electricity.

CEC-RPS-Draft Interim Tracking  
Attestation

**Report to the California Public Utilities Commission**  
**2003 Procurement of Renewable Energy**  
**ATTESTATION FORM**

I, (print name and title)

\_\_\_\_\_, declare under  
penalty of perjury, that the statements contained in Schedule 1 are true and  
correct and that I, as an authorized agent of (print name of company)  
\_\_\_\_\_, have authority to submit this report on the  
company's behalf. I further declare that the kilowatt-hours claimed as  
specific purchases as shown in this Schedule was, to the best of my  
knowledge, sold once and only once to retail consumers. The renewable  
electricity and associated Renewable Energy Credits used for RPS  
compliance have not otherwise been, nor will be, sold, retired, claimed or  
represented as part of electrical energy output or sales, or used to satisfy  
obligations in jurisdictions other the California, and for no other reason  
than to comply with California's Renewable Portfolio Standard.

Signed: \_\_\_\_\_

**CONTACT INFORMATION**

Name

Title

Company Name

Address

City, State, Zip

Phone

Fax

E-mail

## Appendix B

# GLOSSARY

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**Annual procurement target** — the quantity of eligible renewable resources that a retail seller must procure within a particular year to reach the target of 20 percent of its retail sales procured from eligible energy resources no later than December 31, 2017.

**Baseline** — refers to the quantity of eligible renewable resources procured in 2001. For the baseline, “procurement” includes power sold to an investor owned utilities’ customers by the Department of Water Resources and power from a facility owned or contracted for by the investor owned utility, pursuant to SB 1078 Section 399.15 (a) (3).

**Biomass** — any organic material not derived from fossil fuels, including agricultural crops, agricultural wastes and residues, waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape and right-of-way tree trimmings, mill residues that result from milling lumber, rangeland maintenance residues, and wood and wood waste from timbering operations.

**Capacity** — the maximum amount of electricity that a generating unit, power facility, or utility can produce under specified conditions. Capacity is measured in kilowatts or megawatts.

**Collaborative Staff** — the staff at the Energy Commission and the California Public Utilities Commission who have been designated as having special status to work collaboratively and participate in confidential deliberations concerning decision-making on the implementation of the RPS.

**Commercial operation** — the date on which a renewable energy facility first delivers power for sale to the procuring retailer seller. (This definition shall be consistent with the facility's power purchase contract with the retailer seller.)

**Community choice aggregator** — as defined in AB 117 (Chapter 838, Statutes of 2001-2002, Migden) refers to any of the following entities, if that entity is not within the jurisdiction of a local publicly-owned electric utility that provided electrical service as of January 1, 2003: any city, county, or city and county whose governing board elects to combine the loads of its residents, businesses, and municipal facilities in a community-wide electricity buyers program or any group of cities, counties, or cities and counties whose governing boards have elected to combine the loads of their programs, through the formation of a joint powers agency established under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

**Digester gas** — gas from the anaerobic digestion of organic wastes.

**Distributed generation** — small scale electricity generation facilities sited in or close to a load center or at a customers’ site.

**Electric service provider** — an entity such as a marketer or aggregator who provides electricity directly to an end-use customer in the direct-access market.

**Electrical corporations** — Pacific Gas and Electric Company, San Diego Gas and Electric Company, Southern California Edison Company, or other electrical corporations as defined by Public Utilities Code section 218, contributing funds to the Renewable Resource Trust Fund pursuant to Public Utilities Code section 399.

**End-use customer (end-user)** — a residential, commercial, agricultural, or industrial electric customer who buys electricity to be consumed as a final product (not for resale).

**Facility** — see “project.”

**Fossil fuel** — fuel comprised of hydrocarbon constituents, including coal, petroleum, or natural gas, occurring in and extracted from underground deposits, and mixtures or byproducts of these hydrocarbon constituents.

**Fuel cell** — an advanced energy conversion device that combines hydrogen-bearing fuels with air-borne oxygen in an electrochemical reaction to produce electricity very efficiently and with minimal environmental impact.

**Geothermal** — natural heat from within the earth, captured for production of electric power, space heating, or industrial steam.

**Grid** — the electrical transmission and distribution system linking power plants to customers through high power transmission line service.

**Incremental geothermal** — pursuant to PUC section 399.12 (a)(2), incremental geothermal refers to the electricity that can be produced from existing geothermal resource and is eligible to be counted toward an utility’s required additional procurement rather than its baseline.

**Hydroelectric** — a technology that produces electricity by using falling water to turn a turbine generator, referred to as hydro. See also “small hydro.”

**Investor-owned utility (IOU)** — synonymous with “electrical corporations” as defined herein.

**Landfill gas (LFG)** — gas produced by the breakdown of organic matter in a landfill (composed primarily of methane and carbon dioxide) or the technology that uses this gas to produce power.

**Marketer** — an agent for generation projects who markets power on behalf of the generator. The marketer may also arrange transmission, firming or other ancillary services as needed. Though a marketer may perform many of the same functions as a broker, a marketer represents the generator while a broker acts as a middleman.

**Market price referent** — refers to the cost of a non-renewable product used as a comparison to renewable products which are needed to satisfy a retail seller’s RPS obligation pursuant to PUC section 399.15 (c). Further, pursuant to section 399.14 (f), procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable resources, at or below the market price determined by the CPUC pursuant to subdivision (c) of section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates.

**Megawatt (MW)** — one thousand kilowatts. One megawatt is about the amount of power to meet the peak demand of a large hotel.

**Megawatt hour (mWh)** — a unit of measure describing the amount of electricity consumed over time. It means one megawatt of electricity supplied for one hour. Two typical California households consume about a combined total of 1 mWh in an average month, one household consumes about 0.5 mWh.

**Metered** — the independent measurement with a standard meter of the electricity generated by a project or facility.

**Municipal solid waste (MSW)** —solid waste as defined in Public Resources Code section 40191.

**Ocean wave** — refers to an experimental technology that uses ocean waves to produce electricity.

**Ocean thermal**— refers to experimental technology that uses the temperature differences between deep and surface ocean water to produce electricity.

**Photovoltaic (PV)** — a technology that uses a semiconductor to convert sunlight directly into electricity.

**Procurement** — for the purposes of PUC section 399.14 (g), refers to a utility acquiring the renewable output of electric generation facilities that the utility owns or for which it has contracted.

**Project** — A group of one or more pieces of generating equipment, and ancillary equipment necessary to attach to the transmission grid, that is unequivocally separable from any other generating equipment or components. Two or more sets of generating equipment that are contiguous, or that share common control or maintenance facilities and schedules and are located within a one mile radius shall constitute a single project.

**Pumped hydro** — an energy storage technology consisting of two water reservoirs separated vertically; during off-peak hours, water is pumped from the lower reservoir to the upper reservoir, allowing the off-peak electrical energy to be stored indefinitely as gravitational energy in the upper reservoir. During peak hours, water from the upper reservoir may be released and passed through hydraulic turbines to generate electricity as needed.

**Public Goods Charge (PGC)** — a surcharge applied to the electric bills of IOU ratepayers used to support energy efficiency, public interest research, development and demonstration (RD&D), low income, and renewable energy programs. Also called *systems benefit charge*.

**Renewable energy credits (RECs)** —represents the separable bundle of non-energy or non-commodity attributes (environmental, economic, and social) associated with the generation of renewable electricity; the attributes of a given unit of renewable generation, separated from the underlying electrical energy. Green tag, green ticket, and tradable renewable certificate (TRC) are often used synonymously with REC.

**Renewable** — a power source other than a conventional power source within the meaning of Section 2805 of the Public Utilities Code. Section 2805 states: “ ‘Conventional power source’ means power derived from nuclear energy or the operation of a hydropower facility greater than

30 megawatts or the combustion of fossil fuels, unless cogeneration technology, as defined in Section 25134 of the Public Resources Code, is employed in the production of such power.”

**Renewables Portfolio Standard (RPS)** — for the purposes of this document, the term refers to California’s Renewables Portfolio Standard pursuant to SB 1078. In PUC section 399.12 (c) the law states that, “‘renewables portfolio standard’ means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure....”. Under the RPS, an electrical corporation must increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible energy resources no later than December 31, 2017.

**Repower(ed)** — generically refers to replacing a significant portion of the generating equipment at an existing facility.

**RPS Collaborative Workplan** — a written description of how the Energy Commission and the CPUC will work together to implement the RPS, including laying out a three-phased schedule to categorize and sequentially address issues as appropriate. The designated collaborative staff of the Energy Commission and the CPUC developed the RPS Collaborative Workplan.

**Small hydro** — a facility employing one or more hydroelectric turbine generators, the sum capacity of which does not exceed 30 megawatts. Pursuant to PUC section 399.12, procurement from a small hydro facility as of January 1, 2003 is eligible only for purposes of establishing the baseline of an electrical corporation. A new small hydro facility is not eligible for the RPS if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code. Pursuant to PUC section 383.5 (d) (2) (C) (iv) as amended by Public Resources Code section 25743(b)(3)(D), a new small hydro facility must not require a new or increased appropriation of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code to be eligible for supplemental energy payments.

**Supplemental Energy Payments (SEP)** — incentive payments from the Energy Commission to eligible renewable generators for the costs above the market referent of energy procured to meet the RPS, pursuant to PUC section 399.15 (a) (2). Any indirect costs from procuring eligible renewable resources – such as imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades – are not eligible for SEP. The cost of the contract bids for renewable resources that are selected by the utilities to meet their RPS obligation will be compared to the cost of a comparable non-renewable product, the market price referent. Costs for renewable products that exceed the referent, excluding indirect costs noted above, will be covered by the SEP, subject to availability of Public Goods Charge (PGC) funds, pursuant to PUC section 399.15 (a) (4). The Energy Commission will distribute the SEP directly to the renewable generator through its New Renewable Facilities Program.

**Tidal current power** – energy obtained by using the motion of the tides to run water turbines that drive electric generators.

**Transmission system** — an interconnected group of electric transmission lines and associated equipment to move or transfer electric energy in bulk between points of supply and consumption.

**Western Electricity Coordinating Council (WECC)** — formed on April 18, 2002, by the merger of the Western Systems Coordinating Council (WSCC), Southwest Regional Transmission Association (SWRTA), and Western Regional Transmission Association (WRTA). WECC is responsible for coordinating and promoting electric system reliability, assuring open and non-discriminatory transmission access among members, and providing a forum for resolving transmission access disputes.

**WECC interconnection** — the junction where radial lines from a given power plant interconnect to the WECC-controlled transmission system.

**Wind power**— energy from wind converted into mechanical energy and then electricity.

## Appendix C

### ACRONYMS

AB	—	Assembly Bill
APT	—	annual procurement target
CCA	—	community choice aggregator
CEQA	—	California Environmental Quality Act
CIWMB	—	California Integrated Waste Management Board
CPUC	—	California Public Utilities Commission
CTC	—	competitive transition charge
DG	—	distributed generation
ESP	—	electric service provider
IOU	—	investor owned utility
ISO	—	Independent System Operator
kWh	—	kilowatt-hour
LFG	—	landfill gas
MSW	—	municipal solid waste
MW	—	megawatt
mWh	—	megawatt-hour
NRFP	—	New Renewable Facilities Program
PGC	—	Public Goods Charge
PG&E	—	Pacific Gas and Electric Company
PPA	—	power purchase agreement
PUC	—	Public Utilities Code
PV	—	photovoltaic
REC	—	Renewable Energy Credit
REP	—	Renewable Energy Program
RPS	—	Renewable Portfolio Standard
SB	—	Senate Bill
SCE	—	Southern California Edison Company
SDG&E	—	San Diego Gas and Electric Company
SEP	—	supplemental energy payments
SWRCB	—	State Water Resources Control Board
WECC	—	Western Electricity Coordinating Council

# Appendix D

## RELEVANT STATUTORY LANGUAGE

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### Senate Bill 1078 (Chapter 516, Statutes of 2002, Sher)

#### Public Utilities Code

#### Article 16. California Renewables Portfolio Standard Program

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of 20 percent renewable energy for the State of California and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, it is the intent of the Legislature that the California Public Utilities Commission and the State Energy Resources Conservation and Development Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of renewable energy resources may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission and established pursuant to Sections 383.5 and 445.

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Eligible renewable energy resource" means an electric generating facility that is one of the following:

(1) The facility meets the definition of "in-state renewable electricity generation technology" in Section 383.5.

(2) A geothermal generation facility originally commencing operation prior to September 26, 1996, shall be eligible for purposes of adjusting a retail seller's baseline quantity of eligible renewable energy resources except for output certified as incremental geothermal production by the Energy Commission, provided that the incremental output was not sold to an electrical corporation under contract entered into prior to September 26, 1996. For each facility seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(3) The output of a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of the date of enactment of this article shall be eligible only for purposes of establishing the baseline of an electrical corporation pursuant to paragraph (3) of subdivision (a) of Section 399.15. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(4) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. Output from such facilities shall be eligible only for the purpose of adjusting a retail seller's baseline quantity of eligible renewable energy resources.

(b) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3 subject to the following conditions:

(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric service provider and a retail customer expires. Nothing on this subdivision may require an electric service provider to disclose the terms of the contract to the commission.

(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing power consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electrical utility as defined in subdivision (d) of Section 9604.

(c) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to Sections 399.13 and 399.15.

399.13. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (a) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that renewable energy output is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, and for verifying retail product claims in this state or any other state. In establishing the guidelines governing this system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Allocate and award supplemental energy payments pursuant to Section 383.5 to eligible renewable energy resources to cover above-market costs of renewable energy.

**Senate Bill 1038 (Chapter 515, Statutes of 2002, Sher)****Public Utilities Code**

383.5. (a) It is the intent of the Legislature in establishing this program, to increase the amount of renewable electricity generated per year, so that it equals at least 17 percent of the total electricity generated for consumption in California.

(b) As used in this section, the following terms have the following meaning:

(1) "In-state renewable electricity generation technology" means a facility that meets all of the following criteria:

(A) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(B) The facility is located in the state or near the border of the state with the first point of connection to the Western Electricity Coordinating Council (WECC) transmission system located within this state.

(C) For the purposes of this subdivision, "solid waste conversion" means a technology that uses a noncombustion thermal process to convert solid waste to a clean burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(i) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(ii) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801 of the Health and Safety Code.

(iii) The technology produces no discharges to surface or groundwaters of the state.

(iv) The technology produces no hazardous wastes.

(v) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that the those materials will be recycled or composted.

(vi) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(vii) The technology meets any other conditions established by the State Energy Resources Conservation and Development Commission.

(viii) The facility certifies that any local agency sending solid waste to the facility is in compliance with Division 30 (commencing with Section 40000) of the Public Resources Code, has reduced, recycled, or composted solid waste to the maximum extent feasible, and shall have been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling and composting.

(d) (1) Fifty-one and one-half percent of the funds collected pursuant to paragraph (6) of subdivision (c) of Section 381, shall be used for programs designed to foster the development of new in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide.

(2) Any funds used for new in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the report, subject to all of the following requirements:

(A) In order to cover the above market costs of renewable resources as approved by the commission and selected by retail sellers to fulfill their obligations under Article 16 (commencing

with Section 399.11), the Energy Commission shall award funds in the form of supplemental energy payments, subject to the following criteria:

(i) The Energy Commission may establish caps on supplemental energy payments. The caps shall be designed to provide for a viable energy market capable of achieving the goals of Article 16 (commencing with Section 399.11). The Energy Commission may waive application of the caps to accommodate a facility, if it is demonstrated to the satisfaction of the Energy Commission, that operation of the facility would provide substantial economic and environmental benefits to end use customers subject to the funding requirements of Section 381.

(ii) Supplemental energy payments shall be awarded only to facilities that are eligible for funding under this subdivision.

(iii) Supplemental energy payments awarded to facilities selected by an electrical corporation pursuant to Article 16 (commencing with Section 399.11) shall be paid for the lesser of 10 years, or the duration of the contract with the electrical corporation.

(iv) The Energy Commission shall reduce or terminate supplemental energy payments for projects that fail either to commence and maintain operations consistent with the contractual obligations to an electrical corporation, or that fail to meet eligibility requirements.

(v) Funds shall be managed in an equitable manner in order for retail sellers to meet their obligation under Article 16 (commencing with Section 399.11).

(B) The Energy Commission may determine as part of a solicitation, that a facility that does not meet the definition of "in-state renewable electricity generation technology" facility solely because it is located outside the state, is eligible for funding under this subdivision if it meets both of the following requirements:

(i) It is located so that it is or will be connected to the Western Electricity Coordinating Council (WECC) transmission system.

(ii) It is developed with guaranteed contracts to sell its generation to end use customers subject to the funding requirements of Section 381, or to marketers that provide this guarantee for resale of the generation, for a period of time at least equal to the amount of time it receives incentive payments under this subdivision.

(C) Facilities that are eligible to receive funding pursuant to this subdivision shall be registered in accordance with criteria developed by the Energy Commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:

(i) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments, except for that electricity that satisfies the provisions of subparagraph (C) of paragraph (1) of subdivision (c) of Section 399.6.

(ii) Is used onsite or is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

(iii) Is produced by a facility that is owned by an electrical corporation or a local publicly owned electric utility as defined in subdivision (d) of Section 9604.

(iv) Is a hydroelectric generation project that will require a new or increased appropriation of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(D) Eligibility to compete for funds or to receive funds shall be contingent upon having to sell the output of the renewable electricity generation facility to customers subject to the funding requirements of Section 381.

(E) The Energy Commission may require applicants competing for funding to post a forfeitable bid bond or other financial guaranty as an assurance of the applicant's intent to move forward expeditiously with the project proposed. The amount of any bid bond or financial guaranty may not exceed 10 percent of the total amount of the funding requested by the applicant.

(F) In awarding funding, the Energy Commission may provide preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(3) Repowered existing facilities shall be eligible for funding under this subdivision if the capital investment to repower the existing facility equals at least 80 percent of the value of the repowered facility.

(4) Facilities engaging in the combustion of municipal solid waste or tires are not eligible for funding under this subdivision.

(5) Production incentives awarded under this subdivision prior to January 1, 2002, shall commence on the date that a project begins electricity production, provided that the project was operational prior to January 1, 2002, unless the Energy Commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making a finding that the project will not be operational due to circumstances beyond the control of the developer, the Energy Commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production may not extend beyond January 1, 2007.

(6) Facilities generating electricity from biomass energy shall be considered an in-state renewable electricity generation technology facility to the extent that they certify to the satisfaction of the Energy Commission that fuel utilization is limited to the following:

(A) Agricultural crops and agricultural wastes and residues.

(B) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(C) Wood and wood wastes that meet all of the following requirements:

(i) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Ch. 8 (commencing with Sec. 4511), Pt. 2, Div. 4, P.R.C.).

(ii) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(iii) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

**Senate Bill 183 (Chapter 666, Statutes of 2003, Sher)**

## Public Resources Code

SECTION 1. Section 25401.6 of the Public Resources Code is amended to read:

25401.6. (a) In its administration of Section 25744, the commission shall establish a separate rebate for eligible distributed emerging technologies for affordable housing projects including, but not limited to, projects undertaken pursuant to Section 50052.5, 50053, or 50199.4 of the Health and Safety Code. In establishing the rebate, where the commission determines that the occupants of the housing shall have individual meters, the commission may adjust the amount of the rebate based on the capacity of the system, provided that a system may receive a rebate only up to 75 percent of the total installed costs. The commission may establish a reasonable limit on the total amount of funds dedicated for purposes of this section.

(b) It is the intent of the Legislature that this section fulfills the purpose of paragraph (5) of subdivision (b) of Section 25744.

SEC. 2. Chapter 8.6 (commencing with Section 25740) is added to Division 15 of the Public Resources Code, to read:

**CHAPTER 8.6. RENEWABLE ENERGY RESOURCES PROGRAM**

25740. It is the intent of the Legislature in establishing this program, to increase the amount of renewable electricity generated per year, so that it equals at least 17 percent of the total electricity generated for consumption in California per year by 2006.

25741. As used in this chapter, the following terms have the following meaning:

(a) "In-state renewable electricity generation facility" means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility is located in the state or near the border of the state with the first point of connection to the Western Electricity Coordinating Council (WECC) transmission system located within this state.

(3) For the purposes of this subdivision, "solid waste conversion" means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(F) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(G) The technology meets any other conditions established by the commission.

(H) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

(b) "Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge authorized to be collected and to be transferred to the Renewable Resource Trust Fund pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(c) "Report" means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the commission.

25742. (a) Twenty percent of the funds collected pursuant to the renewable energy public goods charge shall be used for programs that are designed to improve the competitiveness of existing in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide. Eligibility for incentives under this section shall be limited to those technologies found eligible for funds by the commission pursuant to paragraphs (5), (6), and (8) of subdivision (c) of Section 399.6 of the Public Utilities Code.

(b) Any funds used to support in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the provisions of the report, subject to all of the following requirements:

(1) Of the funding for existing renewable electricity generation facilities available pursuant to this section, 75 percent shall be used to fund first tier technologies, including biomass and solar electric technologies and 25 percent shall be used to fund second tier wind technologies.

(2) The commission shall reexamine the tier structure as proposed in the report and adjust the structure to reflect market and contractual conditions. The commission shall also consider inflation when adjusting the structure.

(3) The commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report, as those payment caps are revised in guidelines adopted by the commission, representing the difference between target prices and the price paid for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and price paid for electricity or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation. The price paid for electricity shall be determined by the commission based on the energy prices paid to nonutility power generators as authorized by the Public Utilities Commission, or on otherwise available measures of price. For the first tier technologies, the commission shall establish a time-differentiated incentive structure that encourages plants to run the maximum feasible amount of time and that provides a higher incentive when the plants are receiving the lowest price.

(4) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:

(A) Is sold at monthly average rates equal to or greater than the applicable target price, as determined by the commission.

(B) Is that portion of electricity generation attributable to the use of qualified agricultural biomass fuel, for a facility that is receiving fuel-based incentives through the Agricultural Biomass-to-Energy Incentive Grant Program established pursuant to Part 3 (commencing with

Section 1101) of Division 1 of the Food and Agricultural Code. Notwithstanding subdivision (f) of Section 1104 of the Food and Agricultural Code, facilities that receive funding from the Agricultural Biomass-to-Energy Incentive Grant Program are eligible to receive funding pursuant to this section.

(C) Is used onsite or is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

25743. (a) Fifty-one and one-half percent of the money collected pursuant to the renewable energy public goods charge, shall be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide.

(b) Any funds used for new in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) In order to cover the above market costs of renewable resources as approved by the Public Utilities Commission and selected by retail sellers to fulfill their obligations under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, the commission shall award funds in the form of supplemental energy payments, subject to the following criteria:

(A) The commission may establish caps on supplemental energy payments. The caps shall be designed to provide for a viable energy market capable of achieving the goals of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of the Public Utilities Code. The commission may waive application of the caps to accommodate a facility, if it is demonstrated to the satisfaction of the commission, that operation of the facility would provide substantial economic and environmental benefits to end-use customers subject to the funding requirements of the renewable energy public goods charge.

(B) Supplemental energy payments shall be awarded only to facilities that are eligible for funding under this subdivision.

(C) Supplemental energy payments awarded to facilities selected by an electrical corporation pursuant to Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be paid for the lesser of 10 years, or the duration of the contract with the electrical corporation.

(D) The commission shall reduce or terminate supplemental energy payments for projects that fail either to commence and maintain operations consistent with the contractual obligations to an electrical corporation, or that fail to meet eligibility requirements.

(E) Funds shall be managed in an equitable manner in order for retail sellers to meet their obligation under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(2) The commission may determine as part of a solicitation, that a facility that does not meet the definition of an "in-state renewable electricity generation technology" facility solely because it is located outside the state, is eligible for funding under this subdivision if it meets all of the following requirements:

(A) It is located so that it is or will be connected to the Western Electricity Coordinating Council (WECC) transmission system.

(B) It is developed with guaranteed contracts to sell its generation to end-use customers subject to the funding requirements of Section 381, or to marketers that provide this guarantee for resale of the generation, for a period of time at least equal to the amount of time it receives incentive payments under this subdivision.

(C) It will not cause or contribute to any violation of a California environmental quality standard or requirement.

(D) If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

- (E) It meets any other condition established by the commission.
- (3) Facilities that are eligible to receive funding pursuant to this subdivision shall be registered in accordance with criteria developed by the commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:
  - (A) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments, except for that electricity that satisfies subparagraph (C) of paragraph (1) of subdivision (c) of Section 399.6 of the Public Utilities Code.
  - (B) Is used onsite or is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.
  - (C) Is produced by a facility that is owned by an electrical corporation or a local publicly owned electric utility as defined in subdivision (d) of Section 9604 of the Public Utilities Code.
  - (D) Is a hydroelectric generation project that will require a new or increased appropriation of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.
  - (E) Is a solid waste conversion facility, unless the facility meets the criteria established in paragraph (3) of subdivision (a) of Section 25741 and the facility certifies that any local agency sending solid waste to the facility is in compliance with Division 30 (commencing with Section 40000), has reduced, recycled, or composted solid waste to the maximum extent feasible, and shall have been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.
- (4) Eligibility to compete for funds or to receive funds shall be contingent upon having to sell the output of the renewable electricity generation facility to customers subject to the funding requirements of the renewable energy public goods charge.
- (5) The commission may require applicants competing for funding to post a forfeitable bid bond or other financial guaranty as an assurance of the applicant's intent to move forward expeditiously with the project proposed. The amount of any bid bond or financial guaranty may not exceed 10 percent of the total amount of the funding requested by the applicant.
- (6) In awarding funding, the commission may provide preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.
- (c) Repowered existing facilities shall be eligible for funding under this subdivision if the capital investment to repower the existing facility equals at least 80 percent of the value of the repowered facility.
- (d) Facilities engaging in the direct combustion of municipal solid waste or tires are not eligible for funding under this subdivision.
- (e) Production incentives awarded under this subdivision prior to January 1, 2002, shall commence on the date that a project begins electricity production, provided that the project was operational prior to January 1, 2002, unless the commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making a finding that the project will not be operational due to circumstances beyond the control of the developer, the commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production may not extend beyond January 1, 2007.
- (f) Facilities generating electricity from biomass energy shall be considered an in-state renewable electricity generation technology facility to the extent that they report to the commission the types and quantities of biomass fuels used and certify to the satisfaction of the commission that fuel utilization is limited to the following:
  - (1) Agricultural crops and agricultural wastes and residues.
  - (2) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(3) Wood and wood wastes that meet all of the following requirements:

(A) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Sec. 4511) of Part 2 of Division 4).

(B) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(C) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

25744. (a) Seventeen and one-half percent of the money collected pursuant to the renewable energy public goods charge shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

(b) Any funds used for emerging technologies pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) Funding for emerging technologies shall be provided through a competitive, market-based process that shall be in place for a period of not less than five years, and shall be structured so as to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(2) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to subparagraph (C), to purchasers, lessees, lessors, or sellers of eligible electricity generating systems. Incentives shall benefit the end-use consumer of renewable generation by directly and exclusively reducing the purchase or lease cost of the eligible system, or the cost of electricity produced by the eligible system. Incentives shall be issued on the basis of the rated electrical generating capacity of the system measured in watts, or the amount of electricity production of the system, measured in kilowatthours. Incentives shall be limited to a maximum percentage of the system price, as determined by the commission.

(3) Eligible distributed emerging technologies are photovoltaic, solar thermal electric, fuel cell technologies that utilize renewable fuels, and wind turbines of not more than 50 kilowatts rated electrical generating capacity per customer site, and other distributed renewable emerging technologies that meet the emerging technology eligibility criteria established by the commission. Eligible electricity generating systems are intended primarily to offset part or all of the consumer's own electricity demand, and shall not be owned by local publicly owned electric utilities, nor be located at a customer site that is not receiving distribution service from an electrical corporation that is subject to the renewable energy public goods charge and contributing funds to support programs under this chapter. All eligible electricity generating system components shall be new and unused, shall not have been previously placed in service in any other location or for any other application, and shall have a warranty of not less than five years to protect against defects and undue degradation of electrical generation output. Systems and their fuel resources shall be located on the same premises of the end-use consumer where the consumer's own electricity demand is located, and all eligible electricity generating systems shall be connected to the utility grid in California. The commission may require eligible electricity generating systems to have meters in place to monitor and measure a system's performance and generation. Only systems that will be operated in compliance with applicable law and the rules of the Public Utilities Commission shall be eligible for funding.

(4) The commission shall limit the amount of funds available for any system or project of multiple systems and reduce the level of funding for any system or project of multiple systems that has received, or may be eligible to receive, any government or utility funds, incentives, or credit.

(5) In awarding funding, the commission may provide preference to systems that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(6) In awarding funding, the commission shall develop and implement eligibility criteria and a system that provides preference to systems based upon system performance, taking into account factors, including, but not limited to, shading, insulation levels, and installation orientation.

(7) At least once annually, the commission shall publish and make available to the public the balance of funds available for emerging renewable energy resources for rebates, buydowns, and other incentives for the purchase of these resources.

25745. (a) Ten percent of the money collected pursuant to the renewable energy public goods charge shall be used to provide customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

(b) Any funds used for customer credits pursuant to this section shall be expended, as provided in the report, subject to all of the following requirements:

(1) Customer credits shall be awarded to California retail customers located in the service territory of an electrical corporation that is subject to the renewable energy public goods charge that is contributing funds to support programs under this chapter, and that is purchasing qualifying electricity from renewable electricity generating facilities, through transactions traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity from the claimed renewable electricity generating facilities has been sold once and only once to a retail customer.

(2) Credits awarded pursuant to this paragraph may be paid directly to electric service providers, energy marketers, aggregators, or generators if those persons or entities account for the credits on the recipient customer's bills. Credits may not exceed one and one-half cents (\$0.015) per kilowatthour. Credits awarded to members of the combined class of customers, other than residential and small commercial customers, may not exceed one thousand dollars (\$1,000) per customer per calendar year. In no event may more than 20 percent of the total customer incentive funds be awarded to members of the combined class of customers other than residential and small commercial customers.

(3) The commission shall develop criteria and procedures for the identification of energy purchasers and providers that are eligible to receive funds pursuant to this paragraph through a process consistent with this paragraph. These criteria and procedures shall apply only to funding eligibility and may not extend to other renewable marketing claims.

(4) Customer credits may not be awarded for the purchase of electricity that is used to meet the obligations of a renewable portfolio standard.

(5) The Public Utilities Commission shall notify the commission in writing within 10 days of revoking or suspending the registration of any electric service provider pursuant to paragraph (4) of subdivision (b) of Section 394.25 of the Public Utilities Code.

25746. One percent of the money collected pursuant to the renewable energy public goods charge shall be used in accordance with the report to promote renewable energy and disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

25747. (a) The commission shall adopt guidelines governing the funding programs authorized under this chapter, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines may not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this subdivision may not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter

3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001-02 Regular Session are declaratory of, and not a change in existing law.

(b) Funds to further the purposes of this chapter may be committed for multiple years.

(c) Awards made pursuant to this chapter are grants, subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and registered to receive, payments or awards, including satisfying conditions specified by the commission, shall not constitute the rendering of goods, services, or a direct benefit to the commission.

25748. The commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this chapter. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The report shall identify the types and quantities of biomass fuels used by facilities receiving funds pursuant to Section 25743 and their impacts on improving air quality. The reports shall discuss the progress being made toward achieving the 17-percent target provided in Section 25740 by each funding category authorized pursuant to this chapter. The reports shall also address the allocation of funds from interest on the accounts described in this chapter, and money in the accounts described in subdivision (b) of Section 25751. Money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report and with the latest report provided to the Legislature pursuant to this section, except that reallocations may not reduce the allocation established in Section 25743 nor increase the allocation established in Section 25742.

25749. The commission shall, by December 1, 2003, prepare and submit to the Legislature a comprehensive renewable electricity generation resource plan that describes the renewable resource potential available in California, and recommendations for a plan for development to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006. The commission shall consult with the Public Utilities Commission, electrical corporations, and the Independent System Operator, in the development and preparation of the plan.

25750. The commission shall participate in proceedings at the Public Utilities Commission that relate to or affect efforts to stimulate the development of electricity generated from renewable sources, in order to obtain coordination of the state's efforts to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006.

25751. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby established within the Renewable Resource Trust Fund:

- (1) The Existing Renewable Resources Account.
- (2) New Renewable Resources Account.
- (3) Emerging Renewable Resources Account.
- (4) Customer-Credit Renewable Resource Purchases Account.
- (5) Renewable Resources Consumer Education Account.

(c) The money in the fund may be expended for the state's administration of this article only upon appropriation by the Legislature in the annual Budget Act.

(d) Notwithstanding Section 383, that portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to Section 399.8 of the Public Utilities Code, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 399.6 of the Public Utilities Code. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.

(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts. The commission shall examine the cashflow in the respective accounts on an annual basis, and shall annually prepare and submit to the Legislature a report that describes the status of account transfers and repayments.

(g) The commission shall, on a quarterly basis, report to the Legislature on the implementation of this article. Those quarterly reports shall be submitted to the Legislature not more than 30 days after the close of each quarter and shall include information describing the awards submitted to the Controller for payment pursuant to this article, the cumulative commitment of claims by account, the relative demand for funds by account, a forecast of future awards, and other matters the commission determines may be of importance to the Legislature.

(h) The Department of Finance, commencing March 1, 1999, shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 3. Section 383.5 of the Public Utilities Code is repealed.

SEC. 4. Section 383.6 of the Public Utilities Code is amended to read:

383.6. The commission shall, by December 1, 2003, prepare and submit to the Legislature, a comprehensive transmission plan for renewable electricity generation facilities, to provide for the rational, orderly, cost-effective expansion of transmission facilities that may be necessary to facilitate the development of renewable electricity generation facilities identified in the renewable electricity generation resource plan prepared pursuant to Section 25749 of the Public Resources Code. The commission shall consult with the State Energy Resources Conservation

and Development Commission, the Independent System Operator, and electrical corporations in the development of and preparation of the plan.

SEC. 5. Section 383.7 of the Public Utilities Code is repealed.

SEC. 6. Section 394.25 of the Public Utilities Code is amended to read:

394.25. (a) The commission may enforce the provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against electric service providers as if those electric service providers were public utilities as defined in these code sections. Notwithstanding the above, nothing in this section grants the commission jurisdiction to regulate electric service providers other than as specifically set forth in this part. Electric service providers shall continue to be subject to the provisions of Sections 2111 and 2112. Upon a finding by the commission's executive director that there is evidence to support a finding that the electric service provider has committed an act constituting grounds for suspension or revocation of registration as set forth in subdivision (b) of Section 394.25, the commission shall notify the electric service provider in writing and notice an expedited hearing on the suspension or revocation of the electric service provider's registration to be held within 30 days of the notification to the electric service provider of the executive director's finding of evidence to support suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(b) An electric service provider may have its registration suspended or revoked, immediately or prospectively, in whole or in part, for any of the following acts:

(1) Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements.

(2) Dishonesty, fraud, or deceit with the intent to substantially benefit the electric service provider or its employees, agents, or representatives, or to disadvantage retail electric customers.

(3) Where the commission finds that there is evidence that the electric service provider is not financially or operationally capable of providing the offered electric service.

(4) The misrepresentation of a material fact by an applicant in obtaining a registration pursuant to Section 394.

(c) Pursuant to its authority to revoke or suspend registration, the commission may suspend a registration for a specified period or revoke the registration, or in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration shall require the electric service provider to cease serving customers within the boundaries of investor-owned electric corporations, and the affected customers shall be served by the electrical corporation until the time when they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any electric service provider under the service agreement if the serving electric service provider's registration is suspended or revoked.

(d) The commission shall require any electric service provider whose registration is revoked pursuant to paragraph (4) of subdivision (b) to refund all of the customer credit funds that the electric service provider received from the State Energy Resources Conservation and Development Commission pursuant to subdivision (a) of Section 25744 of the Public Resources Code. The repayment of these funds shall be in addition to all other penalties and fines appropriately assessed the electric service provider for committing those acts under other provisions of law. All customer credit funds refunded under this subdivision shall be deposited in the Renewable Resource Trust Fund for redistribution by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.6 (commencing with Section

25740) of Division 15 of the Public Resources Code. This subdivision may not be construed to apply retroactively.

(e) If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the electric corporation shall be the obligation of the electric service provider or a community choice aggregator, except in the case of a customer returned due to default in payment or other contractual obligations or because the customer's contract has expired. As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance sufficient to cover those reentry fees. In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers.

SEC. 7. Section 399.6 of the Public Utilities Code, as added by Section 4 of Chapter 1050 of the Statutes of 2000, is repealed.

SEC. 8. Section 399.8 of the Public Utilities Code, as amended by Section 1 of Chapter 770 of the Statutes of 2001, is repealed.

SEC. 9. Section 399.8 of the Public Utilities Code, as amended by Section 2 of Chapter 770 of the Statutes of 2001, is amended to read:

399.8. (a) In order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is the policy of this state and the intent of the Legislature that prudent investments in energy efficiency, renewable energy, and research, development and demonstration shall continue to be made.

(b) (1) Every customer of an electrical corporation, shall pay a nonbypassable system benefits charge authorized pursuant to this article. The system benefits charge shall fund energy efficiency, renewable energy, and research, development and demonstration.

(2) Local publicly owned electric utilities shall continue to collect and administer system benefits charges pursuant to Section 385.

(c) (1) The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section beginning January 1, 2002, through January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.

(2) This rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. If the amounts specified in paragraph (1) of subdivision (d) are not recovered fully in any year, the commission shall reset the rate component to restore the unrecovered balance, provided that the rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. Pending restoration, any annual shortfalls shall be allocated pro rata among the three funding categories in the proportions established in paragraph (1) of subdivision (d).

(d) The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to collect these funds commencing on January 1, 2002, as follows:

(1) Two hundred twenty-eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities, one hundred thirty-five million dollars (\$135,000,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration. The funds for

energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (c) of Section 381.

(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator. (e) The commission and the Energy Commission shall retain and continue their oversight responsibilities as set forth in Sections 381 and 383, and Chapter 7.1 (commencing with Section 25620) and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(f) (1) On or before January 1, 2004, the Governor shall appoint an independent review panel including, but not limited to, members with expertise on the energy service needs of large and small electricity consumers, system reliability issues, and energy-related public policy. On or before January 1, 2005, the panel shall prepare and submit to the Legislature and the Energy Commission a report evaluating the energy efficiency, renewable energy, and research, development and demonstration programs funded under this section. Reasonable costs associated with the review in each of the three program categories, including technical assistance, may be charged to the relevant program category under procedures to be developed by the commission for energy efficiency and by the Energy Commission for renewable energy and research development and demonstration.

(2) The report shall also assess all of the following:

(A) Whether ongoing programs are consistent with the statutory goals.

(B) Whether potential synergies among the program categories described in paragraph (1) that could provide enhanced public value have been identified and incorporated in the programs.

(C) If established targets for increased renewable generation are likely to be achieved.

(D) What changes should be made to result in a more efficient use of public resources.

(3) The report shall also compare the Energy Commission's programs with efforts undertaken by other states and assess, as an alternative, the relative costs and benefits of adopting a tradable minimum renewable energy requirement in California. The evaluation shall include recommendations intended to optimize renewable resource development at the least cost.

(4) For energy efficiency programs, the report shall include an evaluation of all of the following:

(A) The net benefits secured for residential customers, taking into account both public and private costs, including improvements in that customer group's ability to avoid or reduce consumption of relatively costly peak electricity.

(B) Whether the programs provide a balance of benefits to all sectors that contribute to the funding.

(C) The extent to which competition in energy markets including, but not limited to, load participation in ancillary services markets, and improvements in technology affect the continuing need for such programs.

(D) The status and growth of the private, competitive energy services industry that provides energy efficiency services and other energy products to customers.

(E) The commercial availability of any new technologies that reduce electricity demands during high-priced periods.

(F) Customers' willingness and ability to reduce consumption or adopt energy efficiency measures without program support.

(G) The extent to which the programs have delivered cost-effective energy efficiency not adequately provided by markets and as a result have reduced energy demand and consumption.

(H) The relative cost-effectiveness of program expenditures compared to other current or potential expenditures to enhance system reliability.

(5) The report shall include specific recommendations aimed at assisting the Legislature in determining whether to change or eliminate the collection of the system benefits charge on or after January 1, 2007.

(6) The panel may update and revise the report as needed.

(g) Promptly after receiving the panel's report, the commission shall convene a proceeding to address implementation of the panel's energy efficiency recommendations.

(h) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant shall provide the electrical corporation with written notice of any dispute. Within 10 business days after receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.

SEC. 10. Section 445 of the Public Utilities Code is repealed.

**Senate Bill 67 (Chapter 731, Statutes of 2003, Bowen)**

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 399.14 of the Public Utilities Code is amended to read:

399.14. (a) The commission shall direct each electrical corporation to prepare renewable energy procurement plans as described in paragraph (3) to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(1) (A) The commission shall not require an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until the commission determines either of the following:

(i) The electrical corporation has attained an investment grade credit rating as determined by at least two major rating agencies.

(ii) The electrical corporation is able to procure eligible renewable energy resources on reasonable terms, those resources can be financed if necessary, and the procurement will not impair the restoration of an electrical corporation's creditworthiness. This provision shall not apply before April 1, 2004, for any electrical corporation that on June 30, 2003, is in federal court under Chapter 11 of the federal bankruptcy law.

(B) Within 90 days of the commission's determination as provided in subparagraph (A), an electrical corporation shall conduct solicitations to implement a renewable energy procurement plan. The determination required by this paragraph shall apply only to the requirements established pursuant to this article. The requirements established for an electrical corporation pursuant to Section 454.5 shall be governed by that section.

(2) Not later than six months after the effective date of this section, the commission shall adopt, by rule, for all electrical corporations, all of the following:

(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources. In order to ensure that the market price established by the commission pursuant to subdivision (c) of Section 399.15 does not influence the amount of a bid submitted through the competitive solicitation in a manner that would increase the amount ratepayers are obligated to pay for renewable energy, and in order to ensure that the bid price does not influence the establishment of the market price, the electrical corporation shall not transmit or share the results of any competitive solicitation for eligible renewable energy resources until the commission has established market prices pursuant to subdivision (c) of Section 399.15.

(B) A process that provides criteria for the rank ordering and selection of least-cost and best-fit renewable resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources.

(C) Flexible rules for compliance including, but not limited to, permitting electrical corporations to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years.

(D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators.

(3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include, but is not limited to, all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of renewable generation resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Provisions for employing available compliance flexibility mechanisms established by the commission.

(C) A bid solicitation setting forth the need for renewable generation of each deliverability characteristic, required online dates, and locational preferences, if any.

(4) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years in duration, unless the commission approves of a contract of shorter duration.

(5) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(b) The commission shall review and accept, modify, or reject each electrical corporation's renewable procurement plan 90 days prior to the commencement of renewable procurement pursuant to this article by the electrical corporation.

(c) The commission shall review the results of a renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition amongst the bidders, the commission shall direct the electrical corporation to renegotiate such contracts or conduct a new solicitation.

(d) If an electrical corporation fails to comply with a commission order adopting a renewable procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance.

(e) Upon application by an electrical corporation, the commission may authorize another entity to enter into contracts on behalf of customers of the electrical corporation for deliveries of eligible renewable energy resources to satisfy the annual portfolio standard obligations, subject to similar terms and conditions applicable to an electrical corporation. The commission shall allow the procurement entity to recover reasonable costs through retail rates subject to review and approval.

(f) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates.

(g) For purposes of this article, "procure" means that a utility may acquire the renewable output of electric generation facilities that it owns or for which it has contracted. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Section 383.5, including, but not limited to, work performed to qualify, receive, or maintain production incentives or supplemental energy payments is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 2. Section 399.16 is added to the Public Utilities Code, to read:

399.16. The commission may consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets the criteria described in Section 399.12 and all of the following requirements:

(a) It is located so that it is, or will be, connected to the Western Electricity Coordinating Council (WECC) transmission system.

(b) It is developed with guaranteed contracts to sell its generation, and demonstrates delivery of energy, to a retail seller or the Independent System Operator.

(c) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the State Energy Resources Conservation and Development Commission pursuant to subdivision (b) of Section 399.13.